

ARBITRATION PROCEEDINGS - DAY 2 - October 13, 2010
ARISPE, ET AL VS. MORGAN KEEGAN, & COMPANY

BEFORE FINRA DISPUTE RESOLUTION

In the Matter of the Arbitration Between:

RICHARD R. ARISPE, JIMMY A.)	
BURKE, PEGGY E. BURKE, TODD)	
B. BURKE, JOSE J. COLLADO,)	
ADELA CHRISTINE COLLADO,)	
CHARLES K. COLVIN, C & C)	
ERECTION, INC., NANCY GORDON,)	
SUSAN W. HACKNEY, DON H.)	
JONES, SUZANN S. JONES,)	
WILLIAM A. RHODES, JR., DAWN)	
SCHUESSLER, KENNETH W. SEARS,)	
KENNETH W. SEARS, JR., REINE)	
M. SEARS, DANIEL J. SEARS,)	
KENNETH W. SEARS, III, JUDY)	
STRICKLAND, ELIZABETH STEIN &)	
SHANA L. STEIN,)	
Claimants)	
v.)	FINRA CASE NO. 09-006655
)	
MORGAN KEEGAN & COMPANY,)	
Respondent.)	

DAY 2

ARBITRATION PROCEEDINGS

October 13, 2010

ARBITRATION PROCEEDINGS was taken in the above-styled and numbered cause on the 13th day of October, 2010, from 8:58 a.m. to 5:36 p.m., before Kelly Hanna, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of Greenberg Traurig, 1000 Louisiana, Suite 1700, Houston, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

HANNA & HANNA, INC.
(713) 840-8484



ARBITRATION PROCEEDINGS - DAY 2 - October 13, 2010
ARISPE, ET AL VS. MORGAN KEEGAN, & COMPANY

Page 485	Page 487
<p>1 course, Dr. McCann, that three-month treasuries declined</p> <p>2 during 2007?</p> <p>3 A. No, I keep telling you, that's not true.</p> <p>4 Q. Treasury yields. Treasury yields.</p> <p>5 A. Let me finish, please. I'm not interrupting</p> <p>6 you, Mr. Weiss.</p> <p>7 MR. KERR: Just a minute. One at a time.</p> <p>8 MR. WEISS: I'm trying to correct my</p> <p>9 question because every time I say treasuries, he thinks</p> <p>10 I'm saying treasury prices and I'm actually trying to</p> <p>11 say treasury yields. But that's my fault, okay?</p> <p>12 Q. (BY MR. WEISS) Treasury yields dropped in 2007?</p> <p>13 A. Yes.</p> <p>14 Q. Thank you.</p> <p>15 Now, Dr. McCann, I want to go to your</p> <p>16 analysis on your internally-priced securities. And that</p> <p>17 would be -- if you can help us with the tab number.</p> <p>18 MR. DOBROWSKI: I think 20.</p> <p>19 THE WITNESS: Twenty-four.</p> <p>20 MR. DOBROWSKI: I'm sorry. Twenty-four.</p> <p>21 I was wrong.</p> <p>22 Q. (BY MR. WEISS) All right. I'm just going to</p> <p>23 look at the report that you did for RMH, but you have a</p> <p>24 similar report for the other three closed-end funds,</p> <p>25 correct?</p>	<p>1 Panel that the auditor has in any way stated that the</p> <p>2 audit that they have given for any of these Funds is no</p> <p>3 longer deemed to be a clean audit?</p> <p>4 A. Oh, yes. I think that Helios itself says it in</p> <p>5 a couple of places.</p> <p>6 Q. Dr. McCann, in your reports you indicate, for</p> <p>7 example, on Tab 3, you indicate that RHY's identified --</p> <p>8 this is Page 23 -- identifiable losses were in -- you</p> <p>9 give a certain percentage -- in structured finance. You</p> <p>10 see that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And the term "identifiable losses,"</p> <p>13 where is that in the financial dictionary? Is that</p> <p>14 something that is generally -- is it a term that is</p> <p>15 generally understood and recognized in the securities</p> <p>16 industry, or is it something else?</p> <p>17 A. Well, I don't know. I can explain to you what</p> <p>18 I mean by identifiable losses. I think I have done that</p> <p>19 already, but I don't know whether it's in a new Paul</p> <p>20 Grave dictionary of financial terms or not.</p> <p>21 Q. But that's a term that you've used and you've</p> <p>22 created. Isn't that correct, Dr. McCann?</p> <p>23 A. That's correct.</p> <p>24 Q. And, in fact, for example, in any of your</p> <p>25 charts which use this term "identifiable losses," if a</p>
Page 486	Page 488
<p>1 A. Yes.</p> <p>2 Q. All right. And you have obtained the</p> <p>3 information from -- that allowed you to prepare this</p> <p>4 report from where?</p> <p>5 A. The quarterly filings with the SEC. So, the</p> <p>6 RMK quarterly findings with the SEC.</p> <p>7 Q. And those quarterly filings have been on file</p> <p>8 for several years, correct?</p> <p>9 A. Some of them, yes. Some of them fewer than</p> <p>10 three years; but, yeah, for instance, one of the filings</p> <p>11 would have been on file for two years, but some of them</p> <p>12 at most maybe three years.</p> <p>13 Q. All right. And the information in those</p> <p>14 filings hasn't changed in the last year, correct?</p> <p>15 A. No, I think it has. At least two of the</p> <p>16 filings that we're talking about include financial</p> <p>17 statements that have been withdrawn. So, I think that</p> <p>18 the filings have changed.</p> <p>19 Q. A financial statement has been withdrawn?</p> <p>20 A. Yeah. Maybe -- maybe a lawyer would say it</p> <p>21 differently, but I -- I think that the auditor of these</p> <p>22 Funds has said that the financial statements can no</p> <p>23 longer be relied upon and that they're withdrawing their</p> <p>24 audit opinion on them.</p> <p>25 Q. Dr. McCann, can you show any document to this</p>	<p>1 security was bought after March and then sold before</p> <p>2 June, it wouldn't be reflected in these reports, would</p> <p>3 it?</p> <p>4 A. That's correct.</p> <p>5 Q. And, in fact, there were securities that were</p> <p>6 bought in these Funds during that time frame; isn't that</p> <p>7 right?</p> <p>8 A. Well, none of your public filings would state</p> <p>9 that. So, I don't know that to be true.</p> <p>10 Q. Dr. McCann, it's true that your reports of</p> <p>11 identifiable losses would not include securities that</p> <p>12 were bought before March and sold before June. Isn't</p> <p>13 that right?</p> <p>14 A. That's correct. You've already asked me, yes.</p> <p>15 Q. And isn't it true, Dr. McCann, that your</p> <p>16 reports of identifiable losses would not include</p> <p>17 securities that were bought after March and held after</p> <p>18 June?</p> <p>19 A. Unless it was also held after September, that's</p> <p>20 correct.</p> <p>21 Q. And your -- and, again, we're just speaking in</p> <p>22 that first time frame. Your reports of identifiable</p> <p>23 losses would not include securities that were held in</p> <p>24 March and held after June, correct, Dr. McCann?</p> <p>25 A. I'm sorry. I didn't understand that. Could</p>

ARBITRATION PROCEEDINGS - DAY 2 - October 13, 2010
ARISPE, ET AL VS. MORGAN KEEGAN, & COMPANY

1 STATE OF TEXAS

2 COUNTY OF HARRIS

3
4 REPORTER'S CERTIFICATE

5 ARBITRATION HEARING

6 October 13, 2010

7
8 I, the undersigned Certified Shorthand Reporter in
9 and for the State of Texas, certify that the facts
10 stated in the foregoing pages are true and correct.

11 I further certify that I am neither attorney or
12 counsel for, related to, nor employed by any parties to
13 the action in which this testimony is taken and,
14 further, that I am not a relative or employee of any
15 counsel employed by the parties hereto or financially
16 interested in the action.

17 SUBSCRIBED AND SWORN TO under my hand and seal of
18 office on this the _____ day of _____,

19 _____.

Kelly Hanna

Digitally signed by Kelly Hanna
Date: 2010.10.20 10:40:50 -07:00
Reason: I am the author of this
document
Location: Houston, TX

20
21 Kelly Hanna, CSR, RPR, CRR, CMRS
Texas CSR 1654
Expiration: 12/31/2011
22 Firm Registration No. 581
1225 North Loop West
23 Suite 327
Houston, Texas 77008
24 713.840.8484 - 713.626.1966
www.hannareporting.com
25

HANNA & HANNA, INC.
(713) 840-8484